

SB1208



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB1208

Introduced 1/30/2013, by Sen. William R. Haine

SYNOPSIS AS INTRODUCED:

225 ILCS 10/4.2

from Ch. 23, par. 2214.2

Amends the Child Care Act of 1969. Makes a technical change in a Section regarding background checks. Effective immediately.

LRB098 02915 MGM 32927 b

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Child Care Act of 1969 is amended by
5 changing Section 4.2 as follows:

6 (225 ILCS 10/4.2) (from Ch. 23, par. 2214.2)

7 Sec. 4.2. (a) No applicant may receive a license from the
8 ~~the~~ Department and no person may be employed by a licensed
9 child care facility who refuses to authorize an investigation
10 as required by Section 4.1.

11 (b) In addition to the other provisions of this Section, no
12 applicant may receive a license from the Department and no
13 person may be employed by a child care facility licensed by the
14 Department who has been declared a sexually dangerous person
15 under "An Act in relation to sexually dangerous persons, and
16 providing for their commitment, detention and supervision",
17 approved July 6, 1938, as amended, or convicted of committing
18 or attempting to commit any of the following offenses
19 stipulated under the Criminal Code of 1961:

20 (1) murder;

21 (1.1) solicitation of murder;

22 (1.2) solicitation of murder for hire;

23 (1.3) intentional homicide of an unborn child;

- 1 (1.4) voluntary manslaughter of an unborn child;
- 2 (1.5) involuntary manslaughter;
- 3 (1.6) reckless homicide;
- 4 (1.7) concealment of a homicidal death;
- 5 (1.8) involuntary manslaughter of an unborn child;
- 6 (1.9) reckless homicide of an unborn child;
- 7 (1.10) drug-induced homicide;
- 8 (2) a sex offense under Article 11, except offenses
- 9 described in Sections 11-7, 11-8, 11-12, 11-13, 11-35,
- 10 11-40, and 11-45;
- 11 (3) kidnapping;
- 12 (3.1) aggravated unlawful restraint;
- 13 (3.2) forcible detention;
- 14 (3.3) harboring a runaway;
- 15 (3.4) aiding and abetting child abduction;
- 16 (4) aggravated kidnapping;
- 17 (5) child abduction;
- 18 (6) aggravated battery of a child as described in
- 19 Section 12-4.3 or subdivision (b) (1) of Section 12-3.05;
- 20 (7) criminal sexual assault;
- 21 (8) aggravated criminal sexual assault;
- 22 (8.1) predatory criminal sexual assault of a child;
- 23 (9) criminal sexual abuse;
- 24 (10) aggravated sexual abuse;
- 25 (11) heinous battery as described in Section 12-4.1 or
- 26 subdivision (a) (2) of Section 12-3.05;

1 (12) aggravated battery with a firearm as described in
2 Section 12-4.2 or subdivision (e) (1), (e) (2), (e) (3), or
3 (e) (4) of Section 12-3.05;

4 (13) tampering with food, drugs, or cosmetics;

5 (14) drug induced infliction of great bodily harm as
6 described in Section 12-4.7 or subdivision (g) (1) of
7 Section 12-3.05;

8 (15) hate crime;

9 (16) stalking;

10 (17) aggravated stalking;

11 (18) threatening public officials;

12 (19) home invasion;

13 (20) vehicular invasion;

14 (21) criminal transmission of HIV;

15 (22) criminal abuse or neglect of an elderly or
16 disabled person as described in Section 12-21 or subsection
17 (b) of Section 12-4.4a;

18 (23) child abandonment;

19 (24) endangering the life or health of a child;

20 (25) ritual mutilation;

21 (26) ritualized abuse of a child;

22 (27) an offense in any other jurisdiction the elements
23 of which are similar and bear a substantial relationship to
24 any of the foregoing offenses.

25 (b-1) In addition to the other provisions of this Section,
26 beginning January 1, 2004, no new applicant and, on the date of

1 licensure renewal, no current licensee may operate or receive a
2 license from the Department to operate, no person may be
3 employed by, and no adult person may reside in a child care
4 facility licensed by the Department who has been convicted of
5 committing or attempting to commit any of the following
6 offenses or an offense in any other jurisdiction the elements
7 of which are similar and bear a substantial relationship to any
8 of the following offenses:

9 (I) BODILY HARM

- 10 (1) Felony aggravated assault.
11 (2) Vehicular endangerment.
12 (3) Felony domestic battery.
13 (4) Aggravated battery.
14 (5) Heinous battery.
15 (6) Aggravated battery with a firearm.
16 (7) Aggravated battery of an unborn child.
17 (8) Aggravated battery of a senior citizen.
18 (9) Intimidation.
19 (10) Compelling organization membership of persons.
20 (11) Abuse and criminal neglect of a long term care
21 facility resident.
22 (12) Felony violation of an order of protection.

23 (II) OFFENSES AFFECTING PUBLIC HEALTH, SAFETY, AND DECENCY

- 1 (1) Felony unlawful use of weapons.
- 2 (2) Aggravated discharge of a firearm.
- 3 (3) Reckless discharge of a firearm.
- 4 (4) Unlawful use of metal piercing bullets.
- 5 (5) Unlawful sale or delivery of firearms on the
- 6 premises of any school.
- 7 (6) Disarming a police officer.
- 8 (7) Obstructing justice.
- 9 (8) Concealing or aiding a fugitive.
- 10 (9) Armed violence.
- 11 (10) Felony contributing to the criminal delinquency
- 12 of a juvenile.

13 (III) DRUG OFFENSES

- 14 (1) Possession of more than 30 grams of cannabis.
- 15 (2) Manufacture of more than 10 grams of cannabis.
- 16 (3) Cannabis trafficking.
- 17 (4) Delivery of cannabis on school grounds.
- 18 (5) Unauthorized production of more than 5 cannabis
- 19 sativa plants.
- 20 (6) Calculated criminal cannabis conspiracy.
- 21 (7) Unauthorized manufacture or delivery of controlled
- 22 substances.
- 23 (8) Controlled substance trafficking.

1 (9) Manufacture, distribution, or advertisement of
2 look-alike substances.

3 (10) Calculated criminal drug conspiracy.

4 (11) Street gang criminal drug conspiracy.

5 (12) Permitting unlawful use of a building.

6 (13) Delivery of controlled, counterfeit, or
7 look-alike substances to persons under age 18, or at truck
8 stops, rest stops, or safety rest areas, or on school
9 property.

10 (14) Using, engaging, or employing persons under 18 to
11 deliver controlled, counterfeit, or look-alike substances.

12 (15) Delivery of controlled substances.

13 (16) Sale or delivery of drug paraphernalia.

14 (17) Felony possession, sale, or exchange of
15 instruments adapted for use of a controlled substance,
16 methamphetamine, or cannabis by subcutaneous injection.

17 (18) Felony possession of a controlled substance.

18 (19) Any violation of the Methamphetamine Control and
19 Community Protection Act.

20 (b-1.5) In addition to any other provision of this Section,
21 for applicants with access to confidential financial
22 information or who submit documentation to support billing, no
23 applicant whose initial application was considered after the
24 effective date of this amendatory Act of the 97th General
25 Assembly may receive a license from the Department or a child
26 care facility licensed by the Department who has been convicted

1 of committing or attempting to commit any of the following
2 felony offenses:

3 (1) financial institution fraud under Section 17-10.6
4 of the Criminal Code of 1961;

5 (2) identity theft under Section 16-30 of the Criminal
6 Code of 1961;

7 (3) financial exploitation of an elderly person or a
8 person with a disability under Section 17-56 of the
9 Criminal Code of 1961;

10 (4) computer tampering under Section 17-51 of the
11 Criminal Code of 1961;

12 (5) aggravated computer tampering under Section 17-52
13 of the Criminal Code of 1961;

14 (6) computer fraud under Section 17-50 of the Criminal
15 Code of 1961;

16 (7) deceptive practices under Section 17-1 of the
17 Criminal Code of 1961;

18 (8) forgery under Section 17-3 of the Criminal Code of
19 1961;

20 (9) State benefits fraud under Section 17-6 of the
21 Criminal Code of 1961;

22 (10) mail fraud and wire fraud under Section 17-24 of
23 the Criminal Code of 1961;

24 (11) theft under paragraphs (1.1) through (11) of
25 subsection (b) of Section 16-1 of the Criminal Code of
26 1961.

1 (b-2) Notwithstanding subsection (b-1), the Department may
2 make an exception and, for child care facilities other than
3 foster family homes, issue a new child care facility license to
4 or renew the existing child care facility license of an
5 applicant, a person employed by a child care facility, or an
6 applicant who has an adult residing in a home child care
7 facility who was convicted of an offense described in
8 subsection (b-1), provided that all of the following
9 requirements are met:

10 (1) The relevant criminal offense occurred more than 5
11 years prior to the date of application or renewal, except
12 for drug offenses. The relevant drug offense must have
13 occurred more than 10 years prior to the date of
14 application or renewal, unless the applicant passed a drug
15 test, arranged and paid for by the child care facility, no
16 less than 5 years after the offense.

17 (2) The Department must conduct a background check and
18 assess all convictions and recommendations of the child
19 care facility to determine if hiring or licensing the
20 applicant is in accordance with Department administrative
21 rules and procedures.

22 (3) The applicant meets all other requirements and
23 qualifications to be licensed as the pertinent type of
24 child care facility under this Act and the Department's
25 administrative rules.

26 (c) In addition to the other provisions of this Section, no

1 applicant may receive a license from the Department to operate
2 a foster family home, and no adult person may reside in a
3 foster family home licensed by the Department, who has been
4 convicted of committing or attempting to commit any of the
5 following offenses stipulated under the Criminal Code of 1961,
6 the Cannabis Control Act, the Methamphetamine Control and
7 Community Protection Act, and the Illinois Controlled
8 Substances Act:

9 (I) OFFENSES DIRECTED AGAINST THE PERSON

10 (A) KIDNAPPING AND RELATED OFFENSES

11 (1) Unlawful restraint.

12 (B) BODILY HARM

13 (2) Felony aggravated assault.

14 (3) Vehicular endangerment.

15 (4) Felony domestic battery.

16 (5) Aggravated battery.

17 (6) Heinous battery.

18 (7) Aggravated battery with a firearm.

19 (8) Aggravated battery of an unborn child.

20 (9) Aggravated battery of a senior citizen.

21 (10) Intimidation.

22 (11) Compelling organization membership of persons.

23 (12) Abuse and criminal neglect of a long term care

1 facility resident.

2 (13) Felony violation of an order of protection.

3 (II) OFFENSES DIRECTED AGAINST PROPERTY

4 (14) Felony theft.

5 (15) Robbery.

6 (16) Armed robbery.

7 (17) Aggravated robbery.

8 (18) Vehicular hijacking.

9 (19) Aggravated vehicular hijacking.

10 (20) Burglary.

11 (21) Possession of burglary tools.

12 (22) Residential burglary.

13 (23) Criminal fortification of a residence or
14 building.

15 (24) Arson.

16 (25) Aggravated arson.

17 (26) Possession of explosive or explosive incendiary
18 devices.

19 (III) OFFENSES AFFECTING PUBLIC HEALTH, SAFETY, AND DECENCY

20 (27) Felony unlawful use of weapons.

21 (28) Aggravated discharge of a firearm.

22 (29) Reckless discharge of a firearm.

- 1 (30) Unlawful use of metal piercing bullets.
- 2 (31) Unlawful sale or delivery of firearms on the
3 premises of any school.
- 4 (32) Disarming a police officer.
- 5 (33) Obstructing justice.
- 6 (34) Concealing or aiding a fugitive.
- 7 (35) Armed violence.
- 8 (36) Felony contributing to the criminal delinquency
9 of a juvenile.

10 (IV) DRUG OFFENSES

- 11 (37) Possession of more than 30 grams of cannabis.
- 12 (38) Manufacture of more than 10 grams of cannabis.
- 13 (39) Cannabis trafficking.
- 14 (40) Delivery of cannabis on school grounds.
- 15 (41) Unauthorized production of more than 5 cannabis
16 sativa plants.
- 17 (42) Calculated criminal cannabis conspiracy.
- 18 (43) Unauthorized manufacture or delivery of
19 controlled substances.
- 20 (44) Controlled substance trafficking.
- 21 (45) Manufacture, distribution, or advertisement of
22 look-alike substances.
- 23 (46) Calculated criminal drug conspiracy.
- 24 (46.5) Streetgang criminal drug conspiracy.

1 (47) Permitting unlawful use of a building.

2 (48) Delivery of controlled, counterfeit, or
3 look-alike substances to persons under age 18, or at truck
4 stops, rest stops, or safety rest areas, or on school
5 property.

6 (49) Using, engaging, or employing persons under 18 to
7 deliver controlled, counterfeit, or look-alike substances.

8 (50) Delivery of controlled substances.

9 (51) Sale or delivery of drug paraphernalia.

10 (52) Felony possession, sale, or exchange of
11 instruments adapted for use of a controlled substance,
12 methamphetamine, or cannabis by subcutaneous injection.

13 (53) Any violation of the Methamphetamine Control and
14 Community Protection Act.

15 (d) Notwithstanding subsection (c), the Department may
16 make an exception and issue a new foster family home license or
17 may renew an existing foster family home license of an
18 applicant who was convicted of an offense described in
19 subsection (c), provided all of the following requirements are
20 met:

21 (1) The relevant criminal offense or offenses occurred
22 more than 10 years prior to the date of application or
23 renewal.

24 (2) The applicant had previously disclosed the
25 conviction or convictions to the Department for purposes of
26 a background check.

1 (3) After the disclosure, the Department either placed
2 a child in the home or the foster family home license was
3 issued.

4 (4) During the background check, the Department had
5 assessed and waived the conviction in compliance with the
6 existing statutes and rules in effect at the time of the
7 hire or licensure.

8 (5) The applicant meets all other requirements and
9 qualifications to be licensed as a foster family home under
10 this Act and the Department's administrative rules.

11 (6) The applicant has a history of providing a safe,
12 stable home environment and appears able to continue to
13 provide a safe, stable home environment.

14 (e) In evaluating the exception pursuant to subsections
15 (b-2) and (d), the Department must carefully review any
16 relevant documents to determine whether the applicant, despite
17 the disqualifying convictions, poses a substantial risk to
18 State resources or clients. In making such a determination, the
19 following guidelines shall be used:

20 (1) the age of the applicant when the offense was
21 committed;

22 (2) the circumstances surrounding the offense;

23 (3) the length of time since the conviction;

24 (4) the specific duties and responsibilities
25 necessarily related to the license being applied for and
26 the bearing, if any, that the applicant's conviction

1 history may have on his or her fitness to perform these
2 duties and responsibilities;

3 (5) the applicant's employment references;

4 (6) the applicant's character references and any
5 certificates of achievement;

6 (7) an academic transcript showing educational
7 attainment since the disqualifying conviction;

8 (8) a Certificate of Relief from Disabilities or
9 Certificate of Good Conduct; and

10 (9) anything else that speaks to the applicant's
11 character.

12 (Source: P.A. 96-1551, Article 1, Section 925, eff. 7-1-11;
13 96-1551, Article 2, Section 990, eff. 7-1-11; 97-874, eff.
14 7-31-12; 97-1109, eff. 1-1-13.)

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.